

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

**RICKY WHITE,
a/k/a RICKEY WHITE,**

Petitioner,

v.

JOE M. ALLBAUGH, DOC Director,

Respondent.

Case No. CIV 19-080-JHP-KEW

OPINION AND ORDER

On April 19, 2019, the Court dismissed without prejudice Petitioner's successive petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 for lack of jurisdiction (Dkt. 11). Petitioner subsequently filed a motion for certificate of appealability and for an evidentiary hearing to resolve factual allegations (Dkt. 13).

To obtain a COA, a petitioner must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

[W]hen the district court's decision rests on procedural grounds, such as a determination that a pleading presents unauthorized second or successive habeas claims, . . . the applicant must show both "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling."

Small v. Milyard, 488 F. App'x 288, 290, 2012 WL 2626923, at *2 (10th Cir. 2012) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

After careful review, the Court finds Petitioner has failed to meet the burden for issuance of a COA. The Court further finds an evidentiary hearing cannot be held in this closed case.

ACCORDINGLY, Petitioner's motion for certificate of appealability and for an evidentiary hearing (Dkt. 13) is DENIED.

IT IS SO ORDERED this 3rd day of May 2019.



James H. Payne
United States District Judge
Eastern District of Oklahoma